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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,597	08/18/2003	Jiri Poliacsek	03-12747	5562

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EXAMINER

MANAF, ABDUL

ART UNIT PAPER NUMBER

3635

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,597

Applicant(s)

POLIACEK ET AL.

Examiner

Abdul Manaf

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, 5, 9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the footprint" on line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the first and second tile edges" on line 5. There is insufficient antecedent basis for this limitation in the claim.

In claim 5, "attaching a linear groove connector" line 3, and "a connecting device" on line 4 are confusing.

In claim 9, "extending the first border to a tapered transition line" on line 2; and "extending the second border to a tapered transition line " in line 3 are confusing.

In claim 11, "a ledge that is tapered back from the end of the first border" is confusing.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Patent No. 1,539,988 to O.S. Bowman.

In regard to claim 1, Bowman discloses a method for installing a tile or a board (column 2, lines 85-88) by providing a support (legs) (Figs. 1, 7: 1) within the footprint of and proximate to the outer perimeter of a tile; and providing a first border along a first edge of the tile; and providing a second border along a second edge of the tile wherein the first edge of the tile meets the second edge of the tile at an angle (see Fig. 2).

In regard to claims 2 and 3, Bowman discloses a method for installing a tile or a board by providing a support (legs) further comprising maintaining the position of the first border (leg) relative to the second border (Fig. 2; column 1, lines 43-45) wherein the angle between the two borders is substantially equal to 60 degrees (Figs. 2, 7 Hexagonal shape).

In regard to claim 10, Bowman discloses a method for installing a tile or a board by providing a support (legs) further comprising a ledge (Fig. 5) along a border or leg (Fig. 7: 1).

In regard to claim 11, Bowman discloses a method for installing a tile or a board by providing a support (legs) further comprising a ledge that is tapered (Fig. 5: 6) back from the end of the first border. However Bowman does not specifically disclose the

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angle of tapered ledge as half of the angle between the first and second borders, a border of a hexagonal shape inherently comprise a tapered ledge having an angle that is half of the angle formed between two connected borders of a hexagon.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 7 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 1,539,988 to O.S. Bowman in view of the U.S. Patent No. 3,372,518 to E. G. Rensch.

In regard to claim 4, while Bowman discloses a method for installing a tile or a board by providing a support comprising a first and a second border connected at an angle, he does not disclose a connecting device.

However, Rensch discloses a connecting device (Fig. 4: 116; column 4, lines 30-31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bowman by connecting a first border to a connecting device and connecting a second border to the connecting device at an angle for a stronger tile frame in order to gain more structural strength.

In regard to claims 7, 8 and 9, while Bowman discloses a method for installing a tile or a board by providing a support, he does not disclose a facia between the first border and the second border wherein facia comprises providing extending the first border and second border to a tapered transition line.

However, Rensch discloses a facia (Fig. 4: 16') facia between the first border and the second border wherein facia comprises providing extending the first border and second border to a tapered transition line.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bowman by using a facia between the first border and the second border wherein facia comprises providing extending the first border and second border to a tapered transition line for maintaining a connection and a specific angle in order to maintain a specific shape such as a triangular, pentagonal or hexagonal shape for a corresponding tile.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 1,539,988 to O.S. Bowman in view of the U.S. Patent No. 5,848,506 to Kobayashi et al.

In regard to claim 12, while Bowman discloses a method for installing a tile or a board by providing a support, he does not disclose an expansion relief under a first border.

However, Kobayashi discloses an expansion relief (Fig. 11: 94) under a first border.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bowman by using an expansion relief under a first border for connecting a first border with an adjacent border or with the ground in order to reduce or eliminate structural movements.

Claims 5 and 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent No. 1,539,988 to O.S. Bowman in view of the U.S. Patent No. 3,372,518 to E. G. Rensch further in view of the U.S. Patent No. 5,848,506 to Kobayashi et al.

In regard to claims 5 and 6, while Bowman discloses a method for installing a tile or a board by providing a support, he does not disclose a first border and connecting device each comprising a linear groove connector to restrain movement of the first border relative to the connecting device wherein an expansion relief is provided under the connecting device.

However, Kobayashi discloses first border (Fig. 11: 28) and connecting device (Fig. 11: 90) each comprising a linear groove connector (Fig. 11: 100, 108 respectively) to restrain movement (column 6, lines 35-40) of the first border relative to the

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connecting device wherein the connecting device further comprises an expansion relief (Fig. 11: 112).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bowman by using a first border and connecting device each comprising a linear groove connector to restrain movement of the first border relative to the connecting device wherein an expansion relief is provided under the connecting device for reducing or eliminating structural movements in order to have a more rigid tile frame.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Manaf whose telephone number is 571-272-1476. The examiner can normally be reached on 8-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AM *A.M.*

03/14/2006



Carl D. Friedman
Supervisory Patent Examiner
Group 3600